

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT.

OAH CASE NO. 2013040196

ORDER GRANTING JOINT REQUEST
FOR CONTINUANCE AND SETTING
NEW DATES

This matter is set for hearing on September 3, 4, and 5, 2013, with a prehearing conference on August 26, 2013. On August 21, 2013, Student filed a joint request to continue the dates in this matter, signed by the attorneys for both parties. The request is based upon the need for additional time to complete an agreed-upon assessment.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

1. Continuance: OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. However, Student has requested to set mediation on a Monday (September 23, 2013), with no explanation as to why OAH should deviate from its scheduling priorities, and that date is denied. This matter will be set as follows:

Mediation: September 24, 2013, at 9:30 AM

Prehearing Conference: October 14, 2013, at 1:00 PM

Due Process Hearing: October 21, 2013, at 1:30 PM,
October 22, and 23, 2013, at 9:00 AM, and
continuing day to day, Monday through Thursday,
as needed at the discretion of the Administrative
Law Judge.

2. Other Matters: All other matters relevant to preparing for hearing, including clarification of issues and identification of witnesses and exhibits, will be addressed at the continued prehearing conference.

3. Notice to Witnesses: The parties shall immediately notify all potential witnesses of the hearing dates, and shall subpoena witnesses if necessary, to ensure that the witnesses will be available to testify. A witness will not be regarded as unavailable for purposes of showing good cause to continue the hearing if the witness has not been properly notified of the hearing date or subpoenaed, as applicable.

4. Settlement: Dates for the prehearing conference and the hearing will not be cancelled until a letter of withdrawal or request for dismissal with the signature page of a signed settlement agreement has been received by OAH. If the settlement agreement has been executed but is subject to approval of the school board, the parties may file a motion for OAH to vacate the hearing dates and set a telephonic status conference for a date following board approval. If an agreement in principle is reached, the parties should attend the scheduled prehearing conference and the hearing unless different arrangements have been agreed upon by the assigned Administrative Law Judge or otherwise ordered by OAH.

IT IS SO ORDERED.

Dated: August 21, 2013

/s/

DEIDRE L. JOHNSON
Administrative Law Judge
Office of Administrative Hearings